Court, U.S.
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No. ____

IN THE

Supreme Court of the United States

SANTANA PRODUCTS, INC.,
Petitioner,

v.

BOBRICK WASHROOM EQUIPMENT, INC.,
BOBRICK CORPORATION, HORNYAK GROUP, INC.,
AND VOGEL SALES CO.,
Respondents.

On Petition for a Writ of Certiorari to the United States Court of Appeals for the Third Circuit

PETITION FOR A WRIT OF CERTIORARI

WILLIAM E. JACKSON
B. AARON SCHULMAN
STITES & HARBISON
P.L.L.C.
1199 N. Fairfax Street
Suite 900
Alexandria, VA 22314
(703) 739-4900

DAVID C. FREDERICK
Counsel of Record
RICHARD H. STERN
KELLOGG, HUBER, HANSEN,
TODD, EVANS & FIGEL,
P.L.L.C.
1615 M Street, N.W.
Suite 400
Washington, D.C. 20036
(202) 326-7900

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QUESTIONS PRESENTED

Respondents and a group of other companies that are horizontal competitors in the manufacture and sale of a building product (partitions) conspired with one another to suppress and eliminate from the partition market a new, cheaper, competing product (HDPE partitions) that petitioner manufactures and sells. The conspirators sought to accomplish their exclusionary purpose by disseminating intentionally false statements describing HDPE partitions as a fire hazard. The conspirators also agreed (a) to propagandize architects and others to write bid specifications that prevented submission of any bids utilizing HDPE partitions; and (b) not to make HDPE partitions and to stop selling them. In conflict with the decisions of the D.C., Second, Sixth, and Eighth Circuits, the Third Circuit sided with the Fifth and Seventh Circuits to hold that § 1 of the Sherman Act did not reach the conduct alleged, as a matter of law, because it was not a "restraint of trade."

The questions presented are:

1. Whether concerted action to eliminate a competitive product from the marketplace by use of intentionally false statements is, as a matter of law, immunized from scrutiny under Sherman Act § 1.

2. Whether a court commits legal error when it judges the legality of a conspiracy in restraint of trade by evaluating only one facet of the conspiratorial conduct in isolation from, and without consideration of, the remaining aspects of the conduct alleged to be in restraint of trade.

LIST OF PARTIES TO THE PROCEEDINGS BELOW AND RULE 29.6 STATEMENT

The names of all parties in the court of appeals are: Santana Products, Inc., Bobrick Washroom Equipment, Inc., Bobrick Corporation, Hornyak Group, Inc., Vogel Sales Co., Sylvester & Associates, Ltd., and Fred Sylvester.

Santana Products, Inc. is not publicly traded and has no parent company or subsidiary, and no publicly owned company owns more than 10% of its stock.

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